

## Remarks

### Introduction

Claims 1-28 are pending in the application.

Claims 2-4, 6-10, 12-14, 16-18, 20-24, and 26-28 are withdrawn from consideration.

Claims 1, 5, and 15 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1, 5, 11, 15, 19, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Acres et al. U.S. Patent 6,364,768 (hereinafter "Acres").

Claims 1 and 15 have been amended to more particularly define the invention. No new subject matter has been added and the amendments are fully supported and justified by the specification.

The Examiner's rejections are respectfully traversed.

### Applicants' Reply to the Rejection Under 35 U.S.C. § 101

Claims 1, 5, and 11 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The Examiner contends that the invention of claims 1, 5, and 11 includes mere abstract ideas and does not apply, involve, use, or advance the technological arts because the recited steps can be performed in the mind of a

game dealer or operator. The Examiner, however, states that the claimed invention produces a useful, concrete, and tangible result.

Applicants submit that the Examiner's rejection of claims 1, 5, and 11 under 35 U.S.C. § 101 is improper. The mere fact that method features may be performed mentally does not prevent patentability. See Alco Standard Corp. v. Tennessee Valley Authority, 808 F.2d 1490, 1 USPQ2d 1337 (Fed. Cir. 1986) ("The inclusion in a patent of a process that may be performed by a person, but that also is capable of being performed by a machine, is not fatal to patentability"). The method features of selecting a wagerer, determining if the wagerer is to be recognized, and providing an incentive to the wagerer if the wagerer is determined to be recognized are fully capable of being performed by a machine and are therefore patentable features. Nevertheless, applicants have amended independent claims 1 and 15 in order to more particularly define the invention.

Applicants submit that amended independent claim 1 specifies that the claimed invention is applicable towards an interactive wagering system that is implemented at least partially on user equipment. Racing data from a racing data provider is received at the user equipment

where at least a portion of the racing data originates from at least one race track where races corresponding to the received racing data are being run. A user at the user equipment is allowed to place a parimutuel wager on one of the races. A wagerer of the interactive wagering system is selected. An incentive is provided to the wagerer if the wagerer is determined to be recognized.

Applicants submit that amended independent claim 1 clearly applies, involves, uses, and advances the technological arts and contains more than mere abstract ideas that are performed in the mind of a game dealer or operator.

Accordingly, for at least the above reasons, the rejection of claim 1 under 35 U.S.C. § 101 should be withdrawn. Dependent claims 5 and 11 depend from amended independent claim 1 and the rejection of these claims under 35 U.S.C. § 101 should likewise be withdrawn.

Applicants' Reply to the Rejections  
Under 35 U.S.C. § 102(e)

Claims 1, 5, 11, 15, 19, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Acres.

Acres refers to a casino network of a plurality of gaming machines (e.g., slot machines) and a bonus server. The bonus server, on occasion, transmits a bonus

token to one of the gaming machines to initiate a bonus session. The bonus token activates various effects (e.g., sound and light effects) at the selected gaming machine to attract attention to that machine and causes additional bonuses to be awarded to the player at the selected machine during the bonus session. In some embodiments, rewards and bonuses (e.g., length of bonus sessions) provided to the player may vary based on the status of the player at the selected gaming machine (e.g., VIP players may receive a longer bonus session).

The Examiner contends that Acres discloses all the features of applicants' invention of claims 1, 5, 11, 15, 19, and 25. Applicants submit that Acres at least fails to show or suggest the following features as specified by amended independent claims 1 and 15:

(a) receiving racing data from a racing data provider at user equipment where at least a portion of the racing data originates from at least one race track where races corresponding to the received racing data are being run; and

(b) allowing a wagerer at the user equipment to place a parimutuel wager on one of the races.

As described above, Acres refers to a casino network of gaming machines such as slot machines and video

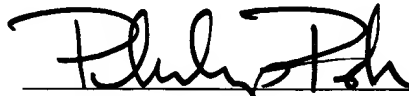
poker machines (see column 1, lines 15-18 and FIG. 2). Each gaming machine separately provides games and rewards to its player. The private network is merely utilized so that a bonus token may be passed from a bonus server to a gaming machine, thereby initiating a bonus mode during which additional rewards may be awarded to the player of that machine. Thus, Acres increases the excitement of playing on the gaming machines by showing potential players that there is always a winning machine (see column 2, lines 18-39). Nowhere in Acres is it shown or suggested that the gaming machines are capable of receiving from a racing data provider racing data that originated from race tracks where races corresponding to the racing data are being run and that the gaming machines are capable of allowing a wagerer to place a parimutuel wager on one of the races.

Accordingly, because Acres fails to show or suggest every limitation of applicants' amended independent claims 1 and 15, the rejection of claims 1 and 15 over Acres under 35 U.S.C. § 102(e) should be withdrawn. Dependent claims 5, 11, 19, and 25 depend from amended independent claims 1 and 15 and the rejection of these dependent claims over Acres under 35 U.S.C. § 102(e) should also be withdrawn for at least the same reasons.

Conclusion

For at least the reasons set forth above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Philip R. Poon", written over a horizontal line.

Philip R. Poon  
Reg. No. 51,176  
Agent for Applicants  
FISH & NEAVE  
Customer No. 1473  
1251 Avenue of the Americas  
New York, New York 10020-1105  
Tel.: (212) 596-9000